IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

TUESDAY, THE 13TH NOVEMBER 2007 / 22ND KARTHIKA 1929

OP.No. 4718 of 2000(J)

PETITIONER:

ANNAMMA PAULOSE, W/O. K.J. PAULOSE, RESIDING AT KADANCHERIL HOUSE, ELAMAKKARA P.O., KOCHI 26

BY ADV. SRI.C.VALSALAN

RESPONDENTS:
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1. THE DEPUTY TAHSILDAR (RR), KANAYANNUR TALUK, ERNAKULAM.

2. CIRCLE INSPECTOR OF POLICE, KALAMASSERY.

3. STATE OF KERALA, REPRESENTED BY SECRETARY, DEPARTMENT OF REVENUE, SECRETARIAT,THIRUVANANTHAPURAM.

BY GOVERNMENT PLEADER SRI. PRADEEP

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 13/11/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ORDER ON CMP 7818 OF 2000 IN OP 4718 OF 2000

DISMISSED

13.11.2007 SD/-C.N.RAMACHANDRAN NAIR, JUDGE.

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1 TRUE COPY OF THE RECEIPT FOR PAYMENT OF REVENUE.

EXT.P2 TRUE COPY OF SNOTICE FROM COCHIN CORPORATION DEMANDING PAYMENT OF BUILDING TAX.

EXT.P3 TRUE COPY OF THE POSSESSION CERTIFICATE.

EXT.P;4 TRUE COPY OF THE NOTICE PASTED BY THE FIRST RESPONDENT ON THE HOUSE OF THE PETITIONER.

RESPONDENTS' EXHIBITS: NIL.

TRUE COPY

P.S. TO JUDGE.

C.N. RAMACHANDRAN NAIR, J.

O.P. NO. 4718 OF 2000

Dated this the 13th day of November, 2007

JUDGMENT

Petitioner is challenging Ext.P4 revenue recovery proceedings by which respondents sought to recover Rs. 8985/- towards arrears of telephone charges payable by the petitioner's son Mr. K.P. Saji. The defaulter is not made a party in the O.P. Petitioner's grievance is that recovery is attempted against her movables and immovables. Since petitioner is not the defaulter, movable and immovable properties belonging to the petitioner in which the defaulter has no right or interest cannot be attached. Recovery has to be necessarily made against the defaulter and his property. Petitioner can file a claim petition under Section 46 of the RR Act by producing title deeds of her immovable property and if defaulter has no right in it, respondents shall not attach and sell such property. O.P. is accordingly disposed of directing the first respondent to verify the title deed to be produced by the petitioner and release it if it exclusively belongs to her and attach and sell only the property in which defaulter has right or interest. So

far as movables are concerned, there will be direction to the first respondent not to attach or sell the movable properties from the house that belong to the petitioner. However, movables of the defaulter in the house can be attached and sold after identifying the same as his.

(C.N. RAMACHANDRAN NAIR)
Judge